

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

|                          |   |                       |
|--------------------------|---|-----------------------|
| UNITED STATES OF AMERICA | : |                       |
|                          | : |                       |
| v                        | : | Crim. No 05-170 (RJL) |
|                          | : |                       |
| CLIFTON RAY GORHAM       | : |                       |

DEFENDANT'S UNOPPOSED MOTION TO  
CONTINUE RESCHEDULED STATUS HEARING AND  
TO ENLARGE TIME FOR FILING PLEADINGS

Defendant, Clifton Ray Gorham, through undersigned counsel, respectfully requests that this Court (1) continue the status hearing in the case now scheduled for January 6, 2006, after having been recently rescheduled from December 19, 2005 and (2) enlarge the time to file responses to the government's oppositions to his motions to suppress until January 10, 2006. As grounds therefore, Defendant states as follows.

1. On May 25, 2005, Defendant was arraigned on an indictment charging him with one count each of unlawful possession of a firearm and ammunition by a felon, in violation of 18 U. S. Code §922(g)(1), assault with a dangerous weapon, in violation of D.C. Code § 22-402, and possession of a firearm during a crime of violence, in violation of D.C. Code § 22-4504(b).

2. A status hearing was scheduled in the case for December 19, 2005. The Court *sua sponte* rescheduled the matter for January 6, 2006. Defendant requests that the

Court continue that hearing due to prior commitments on the part of counsel.<sup>1</sup> Continuation of the hearing will also give the Court an opportunity to receive fuller briefing on several issues.

3. Defendant has filed motions to suppress tangible evidence, suppress identifications and to compel a defense-requested lineup.<sup>2</sup> Defendant expected that the United States would respond to his motions on or before December 9, 2005, when further discovery was due. However, the government was unable to respond to the motions until after the close of business on December 15, 2005. (The government opposed all three motions.) Counsel will be unable to respond to those oppositions until January 10, 2006.<sup>3</sup> Scheduling a status for after January 10, 2006<sup>4</sup> will give this Court the benefit of Defendant's response to the government oppositions before deciding whether to schedule any evidentiary hearings on the motions (and whether to schedule the defense-requested lineup.)

4. Mr. Carlos Acosta, the Assistant United States Attorney assigned to the case, has stated the United States has no opposition to Defendant's requests.

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<sup>1</sup> Counsel has a long-scheduled medical appointment with his ophthalmologist in the morning, which may require dilation of his eyes. Counsel also plans to attend the investiture of Honorable John Fisher of the District of Columbia Court of Appeals in the afternoon.

<sup>2</sup> Defendant also filed a motion to sever counts. The Court has denied that motion.

<sup>3</sup> Counsel has plans to be gone from December 22, 2005 until January 4, 2006. Prior to leaving, counsel had a Reply Brief in the District of Columbia Circuit due December 19, 2005 and a Petition for Writ of Certiorari due in the United States Supreme Court on December 22, 2005.

<sup>4</sup> For scheduling purposes, counsel has commitments on January 11, 12, 17 and 25. He should be free to accommodate any other date the Court might select that month.

WHEREFORE for the above reasons Defendant respectfully requests that this Court (1) continue the status hearing in the case now scheduled for January 6, 2006, after having been recently rescheduled from December 19, 2005 and (2) enlarge the time to file responses to the government's oppositions to his motions to suppress until January 10, 2006.

Respectfully submitted

/s/

Richard K. Gilbert  
Bar. No. 939884  
307 "G" Street, N.W.  
Washington, D.C. 20001  
(202) 898-0857

Attorney for Defendant

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
DEFENDANT'S UNOPPOSED MOTION TO  
CONTINUE RESCHEDULED STATUS HEARING AND  
TO ENLARGE TIME FOR FILING PLEADINGS

1. Although the Federal Rules of Criminal Procedure do not expressly address status hearings by name, the rules clearly entrust scheduling matters to the Court's discretion, subject to any speedy trial constraints. Defendant submits that the brief delay occasioned by the conflict between counsel's previously arranged plans and the Court's schedule is a reasonable one.

2. Federal Rule of Criminal Procedure 47 entrusts to the courts the scheduling of motions. Given the circumstances of the case, including the delay on the part of the United States in responding to Defendant's motions, and the extended absence of defense counsel, Defendant suggests a enlargement in the time to file motions is reasonable.

Respectfully submitted

/s/

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Bar. No. 939884  
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(202) 898-0857

Attorney for Defendant